

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:12-HC-2103-D

SAMUEL ANTWAN MELVIN,

Petitioner,

v.

WARDEN TRACY JOHNS,

Respondent.

ORDER

On April 27, 2012, Samuel Antwan Melvin (“Melvin” or “petitioner”), proceeding pro se, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 [D.E. 1], along with an application to proceed in forma pauperis [D.E. 2] and a motion for appointment of counsel [D.E. 3]. On May 8, 2012, Melvin filed a motion to withdraw his petition [D.E. 4].

A petitioner may dismiss an action voluntarily, without an order of the court, by filing a notice of dismissal at any time before service by the adverse party of an answer or a motion for summary judgment. See Fed. R. Civ. P. 41(a)(1)(A)(i). Respondent has not filed an answer or a motion for summary judgment. Thus, the court will allow the voluntary dismissal.

Melvin’s motion for voluntary dismissal without prejudice [D.E. 4] is ALLOWED, and the court DENIES AS MOOT petitioner’s remaining motions [D.E. 2–3]. The Clerk of Court is DIRECTED to close this case.

SO ORDERED. This 12 day of May 2012.


JAMES C. DEVER III
Chief United States District Judge